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CHAIRMAN

EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

February 8, 2005

The Honorable Brian Sandoval  
Attorney General  
Nevada Department of Justice  
100 North Carson Street  
Carson City, Nevada 89701-4717

Dear Mr. Sandoval:

I am writing in response to your request, pursuant to 40 C.F.R. §1501.5(e), to investigate whether the Department of Energy has inappropriately assumed lead agency status for the proposed construction of a railroad that would connect the repository at Yucca Mountain to an existing rail line in Nevada. You have asserted that the Surface Transportation Board should be the lead agency for preparation of the environmental impact statement (EIS) for this proposal.

Section 1501.5(e) explicitly provides a process for CEQ to designate a lead agency in situations in which more than one Federal agency is involved in a proposed action and either no lead agency has been designated, or involved Federal agencies are unable to agree on which agency should be the lead agency. In this situation, there is a lead agency which, as you point out, is well underway in preparing the EIS and no Federal agency has expressed disagreement with the decision. Thus, the process outlined in Section 1501.5(e) for designating a lead agency has not been triggered.

Thank you for your inquiry.

Yours sincerely,

James L. Connaughton